

**A RESOLUTION
BY FINANCE**

00-R -1784

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT BETWEEN THE ANSLEY PARK CIVIC ASSOCIATION, INC., ATLANTIC STATION, LLC, THE GEORGIA REGIONAL TRANSPORTATION AUTHORITY, AND THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF SUPPORTING AND COOPERATING IN THE DEVELOPMENT OF TRAFFIC STUDIES IN CONNECTION WITH THE 17TH STREET EXTENSION AND THE ATLANTIC STEEL REDEVELOPMENT PROJECT; AUTHORIZING THE COMMISSIONERS OF THE DEPARTMENT OF PUBLIC WORK AND THE DEPARTMENT OF PLANNING DEVELOPMENT AND NEIGHBORHOOD CONSERVATION TO APPOINT STAFF MEMBERS TO A WORKING GROUP TO MONITOR THE TRAFFIC STUDIES; AND FOR OTHER PURPOSES

WHEREAS, by the passage of Ordinance 99-0-0080, the City Council did approve the rezoning of property previously known as the site of the Atlantic Steel and identified as 1400 Mecalpin Street; and

WHEREAS, the purpose of the rezoning was to make possible a development represented by the Use Diagram attached to the ordinance and identified as "Proposed Atlantic Steel Development for Jacoby Development, Incorporated," also known as "Atlantic Station;" and

WHEREAS, the City Council did recognize that the development would require the creation of new infrastructure and streets, including the construction of a bridge over Interstate Highway 75/85, (the "17th Street Bridge") and did attach certain conditions to the rezoning authorized by Ordinance 99-0-0080; and

WHEREAS, certain of the rezoning conditions specify that transportation management and provisions for traffic management are key components of the redevelopment; and

WHEREAS, the issuance of building permits for the Project are conditioned on the existence of a contract for the 17th Street Bridge; and

WHEREAS, the development of the 17th Street Bridge shall be in large part developed at the direction of the Georgia Department of Transportation; and

WHEREAS, Atlantic Station, LLC, the developer of Atlantic Station and the Ansley Park Civic Association have agreed that it is in the best interest of the Ansley Park neighborhood that traffic studies be undertaken to determine the effect of the 17th Street bridge which will be totally funded by the developer; and

WHEREAS, the Ansley Park Civic Association, Inc., Atlantic Station, LLC, the

Georgia Regional Transportation Authority, and the Georgia Department of Transportation have reached agreement on the implementation of certain traffic studies and wish the City of Atlanta to participate and have input as to the recommendations which will result from the development of the traffic studies; and

WHEREAS, the City will benefit by the use of private resources to carry these studies forward and wishes to participate in the development of the traffic plan for the 17th Street Bridge;

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, AS FOLLOWS:

SECTION 1. That the Mayor be authorized to sign an agreement between the Ansley Park Civic Association, Inc., Atlantic Station, LLC, the City of Atlanta, the Georgia Regional Transportation Authority, and the Georgia Department of Transportation, provided that the final form of such agreement is substantially in the form attached to this resolution and does not increase the obligations of the City ;

SECTION 2. That the Commissioners of the Department of Public Work and the Department of Planning Development and Neighborhood Conservation are authorized to appoint members of their professional staff to a working group to monitor the traffic studies.

AGREEMENT

This Agreement (the "Agreement") is entered into this ____ day of October, 2000, by and between the Ansley Park Civic Association, Inc. (hereinafter "APCA"); Atlantic Station, L.L.C. (hereinafter "Atlantic Station"); the City of Atlanta (the "City"); Georgia Regional Transportation Authority (hereinafter "GRTA"); and State of Georgia Department of Transportation (hereinafter "GDOT"). Atlantic Station, the City, GRTA, and GDOT are sometimes hereinafter collectively referred to as the "Non-APCA Parties." The parties hereto hereby covenant and agrees as follows:

WITNESSETH:

WHEREAS, the APCA, a non-profit corporation and homeowner's and resident's association, represents residents of the Ansley Park neighborhood, an area listed on the National Register of Historic Places and described in more detail therein and the City's neighborhood designations (referred to hereinafter as the "Ansley Park Neighborhood"); and

WHEREAS, the Environmental Protection Agency ("EPA") has published its regulatory decision to designate the 17th Street Extension and Atlantic Steel Redevelopment Project (as each is defined in the Environmental Assessment referred to herein) (hereinafter the 17th Street Extension is referred to as the 17th Street Bridge and the 17th Street Extension and Atlantic Steel Redevelopment Project are referred to collectively as the "Project") as a Transportation Control Measure ("TCM"), which TCM became effective on September 27, 2000; and

WHEREAS, EPA, in cooperation with GDOT, GRTA, the City, Federal Highway Administration, the Federal Transit Administration, the Metropolitan Atlanta Rapid Transit

Authority, the Atlanta Regional Commission, and Atlantic Station has prepared an environmental assessment for the Project (hereinafter referred to as the "EA"); and

WHEREAS, APCA has raised concerns about potential traffic in the Ansley Park neighborhood resulting from the Project and other developments in the Midtown Atlanta area (collectively "Midtown Developments"); and

WHEREAS, APCA may, in the absence of an agreement resolving APCA's concerns with the Project, institute legal proceedings against the Project; and

WHEREAS, the parties to this Agreement wish to establish a mechanism for the continued study of traffic in Ansley Park as a result of the aforementioned Midtown Developments and the implementation of traffic calming and traffic control measures to reduce such traffic.

NOW THEREFORE, for and in consideration of the mutual promises set forth herein and good and valuable consideration, the sufficiency whereof is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. External Traffic Study

(A). This Agreement is conditioned upon no legal challenge to the TCM being filed on or before October 30, 2000 (except as set forth in 7(E)), and if such a legal challenge is filed, this Agreement shall be immediately null and void.

(B). Within three (3) business days after formal execution of a Finding of No Significant Impact ("FONSI") by the FHWA as to the EA for the Project, Atlantic Station will deposit \$200,000 (the "External Traffic Study Fund") into an escrow account to be maintained by the Escrow Agent in accordance with the Escrow Agreement dated the date hereof among APCA,

Atlantic Station and either Trinity Title and Exchange, LLC, Trinity Title, Inc. or Chicago Title Insurance Company, as escrow agent, and attached hereto as Exhibit A (the "Escrow Agreement"). The External Traffic Study Fund shall be used expressly for the purpose of conducting a traffic and design study (the "External Traffic Study") to identify vehicular traffic into and from the Ansley Park Neighborhood resulting from the Midtown Developments, to provide recommendations ("External Traffic Study Recommendations") to reduce or eliminate such vehicular traffic, and to prepare the planning and designs (including schematic plans and specifications) necessary to implement such recommendations, all as described in more detail in Exhibit B attached hereto. The External Traffic Study shall be conducted by a reputable professional engineer/planner selected and hired solely by APCA (the "Traffic Consultant"). APCA shall consult with GRTA concerning the selection of the Traffic Consultant, provided that GRTA's approval of such selection shall not be required. The Traffic Consultant shall be licensed to practice in Georgia or shall work in collaboration with a consultant who is licensed in Georgia who will stamp the plans and specifications developed in the External Traffic Study. Copies of the final External Traffic Study shall be provided to the parties within ten (10) days of publication. Atlantic Station is the only party to this Agreement obligated to deposit the \$200,000 referred to in this section, and Atlantic Station shall not be required to contribute any additional monies beyond the \$200,000 set forth herein to preparation of the External Traffic Study. In the event the cost of the External Traffic Study is less than \$200,000, the remaining funds in the External Traffic Study Fund shall be placed in the Ansley Park Traffic Calming Fund (as hereinafter defined).

SECTION 2. Implementation of External Traffic Study

Recommendations in the External Traffic Study shall be implemented as set forth in the attached Exhibit B.

SECTION 3. The Ansley Park Traffic Study.

(A). Upon the later to occur of issuance of the FONSI or January 2, 2001, Atlantic Station shall deposit \$150,000 (the "Ansley Park Traffic Study Fund") in the escrow account created pursuant to the Escrow Agreement attached hereto and incorporated herein, to fund a separate complete, professional traffic study and analysis for the Ansley Park Neighborhood. Such traffic study shall encompass the entire Ansley Park Neighborhood, but shall also specifically include certain relevant external areas and the access points to the Ansley Park Neighborhood along Peachtree Street, such as Beverly Road, Peachtree Circle, 17th Street, 16th Street and 15th Street, the access points along Piedmont Avenue such as Avery Drive, Westminster Drive, The Prado, South Prado, and 15th Street, and the access point along Monroe Drive at Montgomery Ferry Road (hereinafter referred to as the "Ansley Park Traffic Study"). The Ansley Park Traffic Study shall provide an analysis of traffic patterns through the Ansley Park Neighborhood and shall identify appropriate remedial and/or preventive steps to deter "cut-through" traffic and to slow all traffic on neighborhood streets, including traffic projected to be caused by the Project. Atlantic Station is the only party to this Agreement obligated to deposit the \$150,000 referenced in this section, and Atlantic Station shall not be required to contribute any additional monies beyond the \$150,000 set forth herein to preparation of the Ansley Park Traffic Study. In the event the cost of the Ansley Park Traffic Study is less than \$150,000, the remaining funds in the Ansley Park

Traffic Study fund shall be placed in the Ansley Park Traffic Calming Fund (as hereinafter defined).

(i) Atlantic Station shall fund its obligations herein such that Atlantic Station's payment for the External Traffic Study, the Ansley Park Traffic Study and the implementation of the recommendations of the Ansley Park Traffic Study shall not be deemed a disqualification for the receipt of any funds or services by APCA from any other sources. No funding from any source other than Atlantic Station shall be credited towards satisfaction of Atlantic Station's obligation to fund the Ansley Park Traffic Study Fund or the implementation of recommendations contained therein.

(ii) APCA, its delegates, representatives, agents and assignees, including any successor organizations, shall be allowed to select and retain from the Ansley Park Traffic Study Fund such engineers, landscape architects, subcontractors or other professional assistance as it deems necessary or appropriate to complete, modify and update the Ansley Park Traffic Study as conditions warrant.

SECTION 4. Additional Funding Obligations of Atlantic Station.

(A). Upon the later to occur of issuance of the FONSI or September 1, 2001, Atlantic Station shall deposit \$500,000 into the escrow account created under the Escrow Agreement attached hereto and incorporated herein (the "Ansley Park Traffic Calming Fund"). On or before 300 days after commencement of construction of the 17th Street Bridge (which is defined as execution of a general contract between the State of Georgia and a general contractor for construction of the 17th Street Bridge and issuance of a Notice to Proceed), Atlantic Station shall deposit an additional \$800,000 into the Ansley Park Traffic Calming Fund. Atlantic Station shall

deposit an additional \$1,500,000 in the Ansley Park Traffic Calming Fund upon the opening of the 17th Street Bridge to the general public and vehicular traffic ("Bridge Opening"). Atlantic Station is the only party to this Agreement obligated to deposit into the Escrow Account (as defined in Exhibit A) the funds set forth in this Section 4, and Atlantic Station shall not be required to contribute any additional monies to the Ansley Park Traffic Calming Fund. Each of the monies described in this Section 4 shall, upon deposit in the Ansley Park Traffic Calming Fund, immediately become available to pay for the implementation of recommendations made in the Ansley Park Traffic Study provided for in Section 3 above, and accepted by APCA. Such money is to be used solely for such purposes, and will be disbursed from the escrow to APCA pursuant to the Escrow Agreement as and when invoices are received from contractors retained to perform such work and such disbursements will be in the amount of such invoices. Nothing in this Agreement shall waive or supersede the obligation of any person or entity performing any work pursuant to this Agreement or any subsequent contract or agreement deemed necessary to carry out the intent of this Agreement to obtain and pay for all necessary permits from the City of Atlanta, including without limitation, land disturbance permits, construction permits, or permits to make excavations in streets. Improvements on City streets shall be constructed to meet the City's development standards.

(B). Atlantic Station understands and agrees that the External Traffic Study Fund, the Ansley Park Traffic Study Fund and the Ansley Park Traffic Calming Fund shall be irrevocably committed for the purpose of the study and implementation of traffic, health, safety, property value and aesthetic issues, including air and water quality issues, as contemplated hereunder, from the date of execution of this Agreement until the expiration of the 10-year term from the

Bridge Opening. Upon the expiration of such 10 year term, as extended one day for each day that funding obligations and disbursements are suspended pursuant to paragraph 7(D), any unused funds in the Ansley Park Traffic Calming Fund shall be disbursed immediately to Metropolitan Foundation of Atlanta.

(C). Atlantic Station acknowledges and understands that its payments under this Agreement do not replace, reduce or otherwise affect the amount of impact fees which are otherwise payable to the City of Atlanta in connection with the Project.

(D). Atlantic Station agrees not to use any funds made available by the designation of any part of the Project as a Tax Allocation District.

SECTION 5. Representations and Warranties.

(A). Each of the parties to this Agreement represents and warrants as to that party:

- (i) the execution, delivery and performance by it of this Agreement and the consummation of the matters contemplated hereby are within its powers and have been duly authorized by all necessary action;
- (ii) the execution, delivery and performance by it of this Agreement and the consummation of the matters contemplated hereby require no action by or in respect of, or filing with, any governmental body, agency, official or authority;
- (iii) no consent, approval, waiver or other action by any other person is required or necessary for the execution, delivery and performance by it of this Agreement or for the consummation of the matters contemplated hereby; and
- (iv) this Agreement has been duly executed and delivered by and constitutes a valid and binding agreement of such party enforceable in accordance with its terms.

(B). Each person executing this Agreement represents and warrants that he/she has the necessary authority to do so and bind the entity for which he/she executed this Agreement.

SECTION 6. Covenants.

Atlantic Station, the City of Atlanta, and the Georgia Department of Transportation ("GDOT") agree to support the Project, the traffic studies identified in this Agreement, and the implementation of the recommendations of those studies in the manner identified in this Agreement and to the extent authorized by law. GDOT agrees to implementation of the recommendations of the External Traffic Study in the manner set forth in Exhibit B. The City of Atlanta agrees to support implementation of the recommendations of the Ansley Park Traffic Study through use of the Escrow Funds (as defined in Exhibit A) and in a manner consistent with its Comprehensive Development Plan policy of preserving and protecting the integrity of residential neighborhoods within the jurisdiction.

SECTION 7. Litigation Claims.

(A). Upon execution of this Agreement by APCA, Atlantic Station, GRTA and GDOT, APCA agrees that it will not pursue any legal claim, remedy, appeal, petition, lawsuit or other legal challenge (nor encourage, participate in or fund any such activity) to any and/or all of (1) the Transportation Control Measure related to the Project, (2) the Environmental Assessment performed for the Project and any Finding of No Significant Impact with respect to said Environmental Assessment; and (3) any other federal, state or local approvals associated with the Project (collectively "Prohibited Claims"). Any pending Prohibited Claims shall be dismissed immediately upon execution of this Agreement. Nothing herein shall prevent any party hereto

from bringing an action in any court of competent jurisdiction to enforce the terms of this Agreement.

(B). The parties hereto agree that any breach of this Agreement constitutes irreparable harm, that damages alone will be difficult or potentially impossible to ascertain with precision and there is no adequate remedy at law for such breach. Accordingly, the parties agree that the terms of this Agreement may be enforced through equitable relief. In the event any payment to be made hereunder by Atlantic Station is not made within fifteen (15) business days following notice from APCA or Escrow Agent that such payment was not paid when due, then such payment shall be accompanied by a late fee in the amount of 10% of the payment being made. In the event APCA or Escrow Agent has to commence any action to enforce the making of any payment to be made by Atlantic Station hereunder, Atlantic Station shall pay all costs of collection including without limitation court costs and expenses and reasonable attorneys fees actually incurred.

(C). If any Prohibited Claims are asserted by APCA and not dismissed within 20 business days notice to APCA of the filing of such Prohibited Claims, then all future funding obligations of Atlantic Station under this Agreement shall terminate and Escrow Funds in the Escrow Account shall be disbursed to Atlantic Station.

(D). If any Prohibited Claims are asserted against the 17th Street Bridge by any Resident of Ansley Park Neighborhood, then all future funding obligations of Atlantic Station under this Agreement shall be suspended and all disbursements from the Escrow Account shall cease until dismissal of such Prohibited Claims and any final appeal therefrom or final resolution of such Prohibited Claims. For purposes of this Agreement, the term "Resident of Ansley Park

Neighborhood" shall mean any residential resident of any residential property located on any of the following streets: 15th Street (excluding Colony Square), Peachtree Circle, Inman Circle, 17th Street, The Prado, Westminster, Barksdale, Yonah, Walker Terrace, Park Lane, East Park Lane, South Prado, Avery Drive, Maddox, Polo, Golf Circle, Ansley Drive, Montgomery Ferry south southwest of the Bridge over the train tracks, Beverly Drive east of Montgomery Ferry, Lafayette Drive and Ansley Walk Terrace.

(E). The parties acknowledge that APCA shall file a notice challenging the TCM under seal with the United States Court of Appeals on Friday, October 27, 2000 merely for purposes of preserving its claim. If no other party files a challenge to the TCM on or before Monday, October 30, 2000, then APCA shall dismiss and withdraw its notice and challenge on Tuesday, October 31, 2000. If a challenge to the TCM is filed by another party on or before Monday, October 30, 2000, then this Agreement shall be null and void.

SECTION 8. Successors and Assigns.

As between APCA and Atlantic Station, this Agreement shall be binding upon each of them and their successors and assigns (but not including successors in title only).

SECTION 9. Termination.

This Agreement may be terminated at any time by mutual written agreement by all parties hereto.

SECTION 10. No Waivers.

Except as it concerns the Project, the execution of this Agreement and the acceptance of any funding contained herein, shall not constitute a waiver or estoppel with respect to any rights

of APCA or of any of the residents of the Ansley Park Neighborhood in connection with any other future transportation projects.

SECTION 11. Public Announcements.

Any public announcement deemed a joint press conference or announcement shall only be made with the specific prior written approval and authorization of all parties to this Agreement. Comments or actions of individual citizens shall not be attributed to the parties unless expressly authorized or endorsed by it.

SECTION 12. Governing Law.

This Agreement shall be governed by the laws of the State of Georgia and is enforceable in any court of competent jurisdiction and the parties hereto hereby agree to submit to such jurisdiction.

SECTION 13. Guaranty.

Jacoby Development, Inc. hereby guarantees payment of the funding obligations of Atlantic Station as set forth in paragraphs 1(B), 3(A) and 4 of this Agreement.

SECTION 14. Notices.

Whenever any notice is required or permitted hereunder, such notice shall be in writing and shall be (i) delivered in person, or (ii) sent registered or certified mail, return receipt requested, to the address set forth below, or (iii) sent Federal Express, Express Mail, or other overnight delivery service to the addresses set forth below:

APCA:

ANSLEY PARK CIVIC ASSOCIATION
P.O. BOX 7775, STATION C
ATLANTA, GA 30357

With courtesy copies to:

Charles Taylor, Esquire
The HT Group
2021 Monroe Drive
Atlanta, GA 30324
ATLANTIC STATION:

With courtesy copies to:

ESCROW AGENT:

Except to the extent specifically altered herein, dispatch of notice to APCA, Atlantic Station and Escrow Agent in accordance with the terms hereof shall be deemed to be proper notice hereunder.

SECTION 15. Time of Essence.

Time is of the essence in this Agreement.

SECTION 16. Counterparts.

This Agreement may be executed in several counterparts, each of which when taken together shall be deemed an original and all of such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

GEORGIA DEPARTMENT OF
TRANSPORTATION

J. Tom Coleman

J. Tom Coleman,
Commissioner, Department of Transportation
State of Georgia

Attested by:

Billy F. Sharp

Billy F. Sharp,
Treasurer

CITY OF ATLANTA

Attested by: _____

Its: _____

By: _____
Its: _____

GEORGIA REGIONAL TRANSPORTATION
AUTHORITY

Jason D. Ellis
Attested by: JASON D. ELLIS
Its: Secretary to the Board

By: *James H. Brown*
Its: Chairman

ANSLEY PARK CIVIC ASSOCIATION

Rogers Barry
Attested by: ROGERS BARRY
Its: VICE PRESIDENT

By: *KM H*
Its: President

ATLANTIC STATION, L.L.C., a Delaware limited
liability company

By: Jacoby Atlantic Redevelopment, L.L.C., a
Georgia limited liability company, sole member
and manager

By: *James F. Jacoby*
James F. Jacoby, Chairman

ansley1

JACOBY DEVELOPMENT, INC.

By:

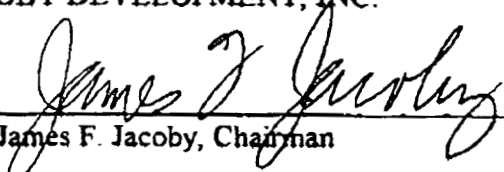

James F. Jacoby, Chairman

EXHIBIT A

THIS ESCROW AGREEMENT (the "Agreement") is made and entered into this ____ day of October, 2000, by and among Atlantic Station, L.L.C. and (collectively "Atlantic Station") and Ansley Park Civic Association ("APCA") and _____ ("Escrow Agent").

WITNESSETH:

WHEREAS, APCA, a non-profit corporation and homeowner's and resident's association, represents residents of the Ansley Park neighborhood, an area listed on the National Register of Historic Places and described in more detail therein and the City's neighborhood designations (referred to hereinafter as the "Ansley Park Neighborhood"); and

WHEREAS, the Environmental Protection Agency ("EPA") has published its regulatory decision to designate the 17th Street Extension and Atlantic Steel Redevelopment Project (as each is defined in the Environmental Assessment referred to herein) (the 17th Street Extension being referred to as the 17th Street Bridge and the 17th Street Extension and Atlantic Steel Redevelopment Project are hereinafter collectively referred to as the "Project") as a transportation control measure ("TCM"), which became effective on September 27, 2000; and

WHEREAS, EPA in cooperation with Georgia Department of Transportation ("GDOT"), Georgia Regional Transportation Authority ("GRTA"), the City of Atlanta, Federal Highway Work Authority, the Federal Transit Administration, the Metropolitan Atlanta Rapid Transit Authority, the Atlanta Regional Commission, and Atlantic Station has prepared an environmental assessment for the Project (hereinafter referred to as the "EA"); and

WHEREAS, Atlantic Station, GDOT, GRTA and APCA have entered into a separate agreement of even date herewith ("APCA/Atlantic Station Agreement"); and

WHEREAS, APCA has raised concerns about potential traffic in the Ansley Park neighborhood resulting from current and future developments in the Midtown Atlanta area, including the Project (collectively "Midtown Developments"); and

WHEREAS, the parties to this Agreement wish to establish an escrow account to fund the External Traffic Study, Ansley Park Traffic Study and the implementation of recommendations in the Ansley Park Traffic Study (as set forth in the APCA/Atlantic Station Agreement); and

WHEREAS, this Escrow Agreement sets forth the terms governing this escrow account;

NOW, THEREFORE, for and in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, APCA, Atlantic Station and Escrow Agent do hereby agree as follows:

1. Amount of Escrow. Atlantic Station is to deposit certain funds ("Escrow Funds") with the Escrow Agent as set forth in the APCA/Atlantic Station Agreement. Escrow Agent

shall deposit the Escrow Funds into an FDIC interest-bearing account or otherwise invested as directed by APCA ("Escrow Account"). All interest or income earned on the Escrow Funds shall become part of the Escrow Funds and shall be disbursed in accordance with this Escrow Agreement. APCA's employer identification number is _____.

2. Payment or Reimbursement from Escrow. From time to time, as requested by APCA, and upon the satisfaction of and to the extent permitted by the Disbursement Procedures described in Paragraph No. 4 below ("Disbursement Procedures"), Escrow Agent shall disburse from the Escrow Funds payment for the costs and expenses incurred by APCA in accordance with and subject to the limits provided by the Disbursement Procedures.

3. Return of Balance of Escrow Funds. Upon the expiration of the ten (10) year term as established, and if applicable extended pursuant to Section 4(B) of the APCA/Atlantic Station Agreement, to the extent there remains any portion of the Escrow Funds not disbursed, such remaining Escrow Funds shall be disbursed to Metropolitan Atlanta Foundation.

4. Disbursement Procedures. Escrow Fund shall be disbursed, to APCA, only for the following purposes: (A) to fund invoices received from the Traffic Consultant (as defined in the APCA/Atlantic Station Agreement) retained to perform the External Traffic study and supplements thereto; (B) to fund invoices received from the Traffic Consultant retained to perform the Ansley Park Traffic Study and supplements thereto; and (C) to fund as allowed by the APCA/Atlantic Station Agreement implementation of recommendations set forth in the Ansley Park Traffic Study. Whenever APCA shall request any disbursement from Escrow Agent of any amount hereunder, APCA shall (1) provide notice to Escrow Agent, in writing, of the amount requested to be disbursed and (2) deliver to Escrow Agent the invoice from the consultants or contractors performing such activity which documents the traffic study or implementation performed. So long as the invoice for which disbursement is requested is for work consistent with the purposes stated in this Paragraph, then Escrow Agent shall make such disbursement. Escrow Agent shall make disbursements monthly for all requests for disbursement received prior thereto. Disbursements from the Escrow Account shall be subject to Section 7(D) of the APCA/Atlantic Station Agreement.

5. Exculpation of Escrow Agent. In performing its duties hereunder, Escrow Agent, except for its willful default or breach of trust, shall not incur any liability to anyone for any loss or damage resulting from any good faith act or forbearance of Escrow Agent, any default, error, action or omission of any party other than Escrow Agent, Escrow Agent's compliance with all attachments, writs, orders, judgment or other legal process issued out of any court, Escrow Agent's assertion or failure to assert any cause of action or defense in any judicial or administrative proceeding or any loss or damage which arises after the Escrow Funds have been disbursed in accordance with the terms of this Agreement.

6. Indemnity of Escrow Agent. APCA and Atlantic Station hereby indemnify and hold harmless Escrow Agent against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable costs of investigation and legal counsel fees, which may be imposed upon Escrow Agent or incurred by Escrow Agent in connection with the performance of its duties hereunder, including, without limitation, any litigation arising from this Agreement

or involving the subject matter hereof, except for such losses, claims, damages, liabilities and expenses which arise due to Escrow Agent's breach of trust or willful default.

7. Escrow Agent Fees. Escrow Agent shall be entitled to receive a fee for the service provided APCA hereunder. The fee, which shall be paid out of the Escrowed Funds, shall be _____ for the establishment of the escrow and _____ per month.

8. Notices. whenever any notice is required or permitted hereunder, such notice shall be in writing and shall be (i) delivered in person, or (ii) sent registered or certified mail, return receipt requested, to the address set forth below, or (iii) sent Federal Express, Express Mail, or other overnight delivery service to the addresses set forth below:

APCA:

With courtesy copies to:

ATLANTIC STATION:

With courtesy copies to:

ESCROW AGENT:

Except to the extent specifically altered herein, dispatch of notice to APCA, Atlantic Station and Escrow Agent in accordance with the terms hereof shall be deemed to be proper notice hereunder.

9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, personal representatives, successors (but not successors in title only) and assigns.

10. Time of Essence. Time is of the essence in this Agreement.

11. Governing Law. This Agreement is governed by and shall be construed in accordance with the laws of the State of Georgia.

12. Governing Instrument. To the extent any conflict exists between this Escrow Agreement and the APCA/Atlantic Station Agreement, the terms of this Escrow Agreement shall control.

IN WITNESS WHEREOF, APCA, Atlantic Station and Escrow Agent have caused their incumbent and duly authorized representatives to sign and seal this Escrow Agreement the day and year first above written.

ANSLEY PARK CIVIC ASSOCIATION:

KM It (SEAL)

Rose B... (SEAL)

ATLANTIC STATION, L.L.C.:

STATION, L.L.C., a Delaware limited liability company

By: Jacoby Atlantic Redevelopment, L.L.C., a Georgia limited liability company, sole member and manager

By:

James F. Jacoby, Chairman

ESCROW AGENT:

_____ TITLE INSURANCE COMPANY

By: _____

Title: _____ ATLANTIC

EXHIBIT B

This Agreement is entered into this ____ day of October, 2000, by and between the Ansley Park Civic Association, Inc. (hereinafter "APCA"); the City of Atlanta (the "City"); the Georgia Regional Transportation Authority (hereinafter "GRTA"); and the State of Georgia Department of Transportation (hereinafter "GDOT"). The City, GRTA, and GDOT are sometimes hereinafter collectively referred to as the "Non-APCA Parties." The parties hereto hereby covenant and agrees as follows:

W I T N E S S E T H:

WHEREAS, the APCA, a non-profit corporation and homeowner's and resident's association, represents residents of the Ansley Park neighborhood, an area listed on the National Register of Historic Places and described in more detail therein and the City's neighborhood designations (referred to hereinafter as the "Ansley Park Neighborhood"); and

WHEREAS, the Environmental Protection Agency ("EPA") has published its regulatory decision to designate the 17th Street Extension and Atlantic Steel Redevelopment Project (as each such term is defined in the Environmental Assessment referred to herein) (the 17th Street Extension being referred to as 17th Street Bridge and the 17th Street Extension and Atlantic Steel Redevelopment Project are hereinafter collectively referred to as the "Project") as a Transportation Control Measure ("TCM"), which TCM became effective on September 27, 2000; and

WHEREAS, EPA in cooperation with GDOT, GRTA, the City, FHWA, the Federal Transit Administration, the Metropolitan Atlanta Rapid Transit Authority, the Atlanta Regional Commission and Atlantic Station L.L.C. ("Atlantic Station") has prepared an environmental assessment for the Project (hereinafter referred to as the "EA"); and

WHEREAS, Atlantic Station, GRTA and APCA have entered into a separate agreement of even date herewith ("APCA/Atlantic Station Agreement").

WHEREAS, APCA has raised concerns about potential vehicular traffic in the Ansley Park neighborhood resulting from current and future developments in the Midtown Atlanta area, including the Project (collectively "Midtown Developments"); and

WHEREAS, the parties to this Agreement wish to establish a mechanism to implement recommendations in the External Traffic Study as that term is defined in the APCA/Atlantic Station Agreement to address vehicular traffic in Ansley Park which results from the aforementioned Midtown Developments and the implementation of traffic calming and traffic control measures to reduce such vehicular traffic.

NOW THEREFORE, for and in consideration of the mutual promises set forth herein and good and valuable consideration, the sufficiency whereof is hereby acknowledged, the parties hereto agree as follows:

1. Purpose

This External Traffic Study will (i) identify the likely vehicular traffic in the Ansley Park Neighborhood arising from development which has and will occur in the Midtown Atlanta area and (ii) develop specific recommendations to address such traffic circulation patterns. The External Traffic Study will examine external streets from/to Ansley Park in an area defined as Peachtree Street to the east, Interstate 75/85 at the west, the Peachtree Street bridge over I-85 at the north and 14th Street at the south. The External Traffic Study will examine traffic flow in that area including, east-west cross streets providing access to the Ansley Park Neighborhood, recognizing that the Ansley Park Traffic Study will investigate internal streets. The External Traffic Study will examine intersection traffic reassignment and performance levels in order to

gauge the appropriateness of potential remedies to provide adequate roadway, bike and pedestrian operations outside of the neighborhood to protect the Ansley Park Neighborhood. Recommendations may consist of signage improvements, channelization, intersection reconfiguration, turning restrictions, and other traffic management actions but will not include any reconfiguration of the Project Concept as set forth in the Environmental Assessment.

2. Budget Needs

Funding for the External Traffic Study shall be provided by Atlantic Station as set forth in Section 1 of the APCA/Atlantic Station Agreement.

3. Work Plan

Specific tasks necessary to determine appropriate transportation remedies include:

A. Assessing Existing Traffic Conditions. This step will identify current and future traffic volumes for both daily, morning and afternoon peak hour periods on major street segments especially those streets serving the neighborhood and at key intersections within the study area. Available count data will be used wherever possible though new field counts may be necessary to supplement data on file. Traffic operations will be evaluated for Level of Service using 1997 Highway Capacity Manual procedures or the soon-to-be released 2000 procedures, if available, and progressive modeling programs such as Netsim and Coresim. Beyond quantitative measures, emphasis will be given to characterizing overall traffic behavior adjacent to the Ansley Park Neighborhood, looking, for example, at typical speeds, level of service, efficiency of pedestrian movement and whether traffic conditions and accesses are appropriate for the abutting land uses and neighborhood access.